

PLANNING AND ZONING COMMISSION
STAFF REPORT

October 1, 2015



Planning Variance case no. PV15-11: Rick Rogers

CASE DESCRIPTION: a request for approval of a complete variance from the minimum 25-foot front building setback generally required on properties zoned Residential District – 5000 (RD-5), to legitimize previous instillation of a carport that extends all the way to the front property line

LOCATION: 3803 Oak Hill Drive on the south side of Oak Hill Drive between Windridge and Woodmeadow Drives, being Lot 12 in Block 14 of The Oaks Phase 4

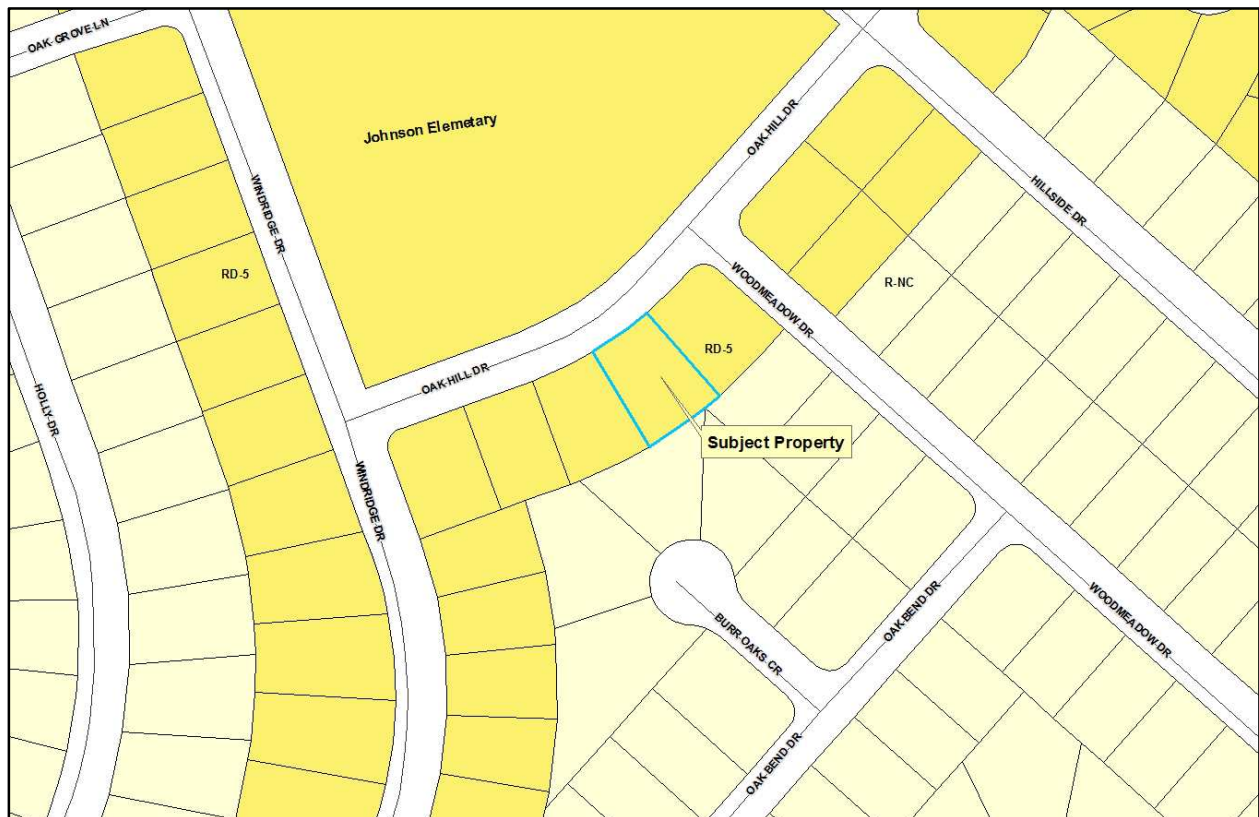
ZONING: Residential District – 5000 (RD-5)

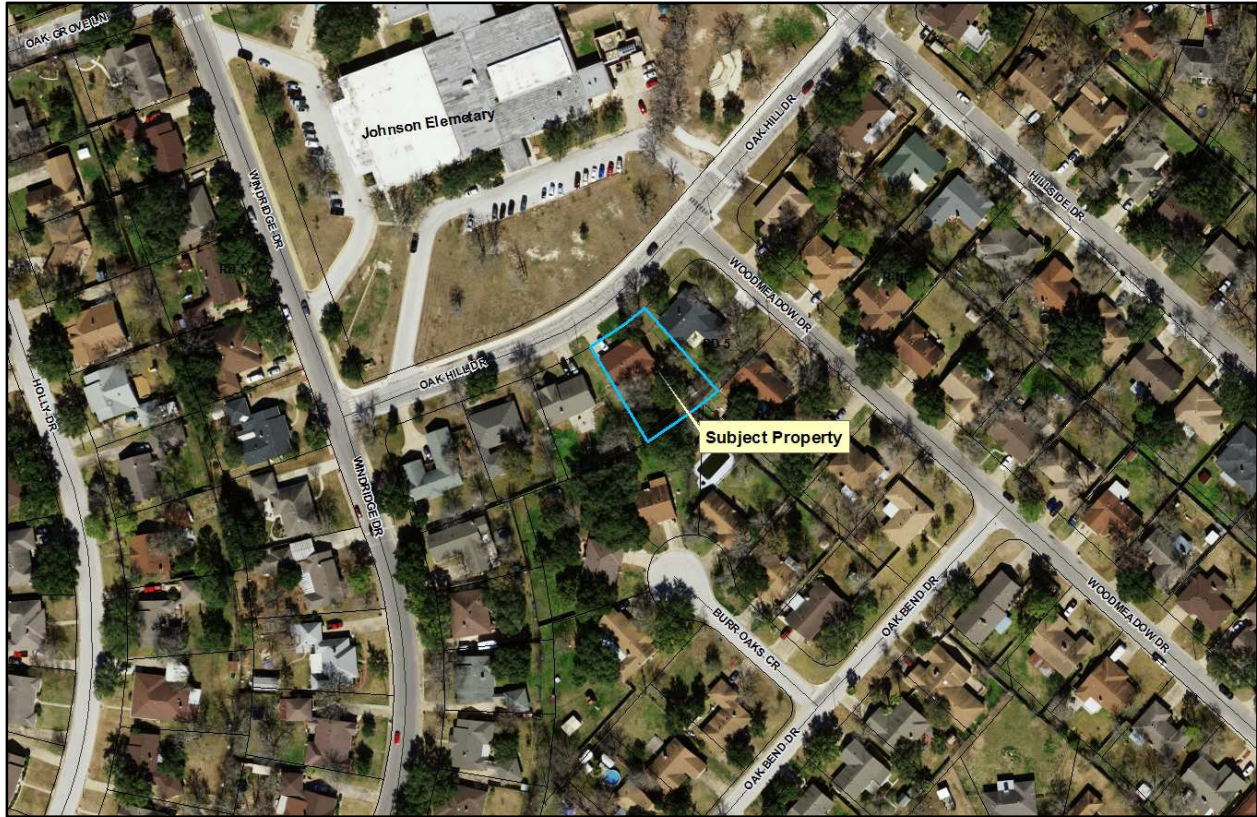
EXISTING LAND USE: single-family home

APPLICANT(S): Rick Rogers, property owner

STAFF CONTACT: Stephanie Doland, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **denying** the requested variance.



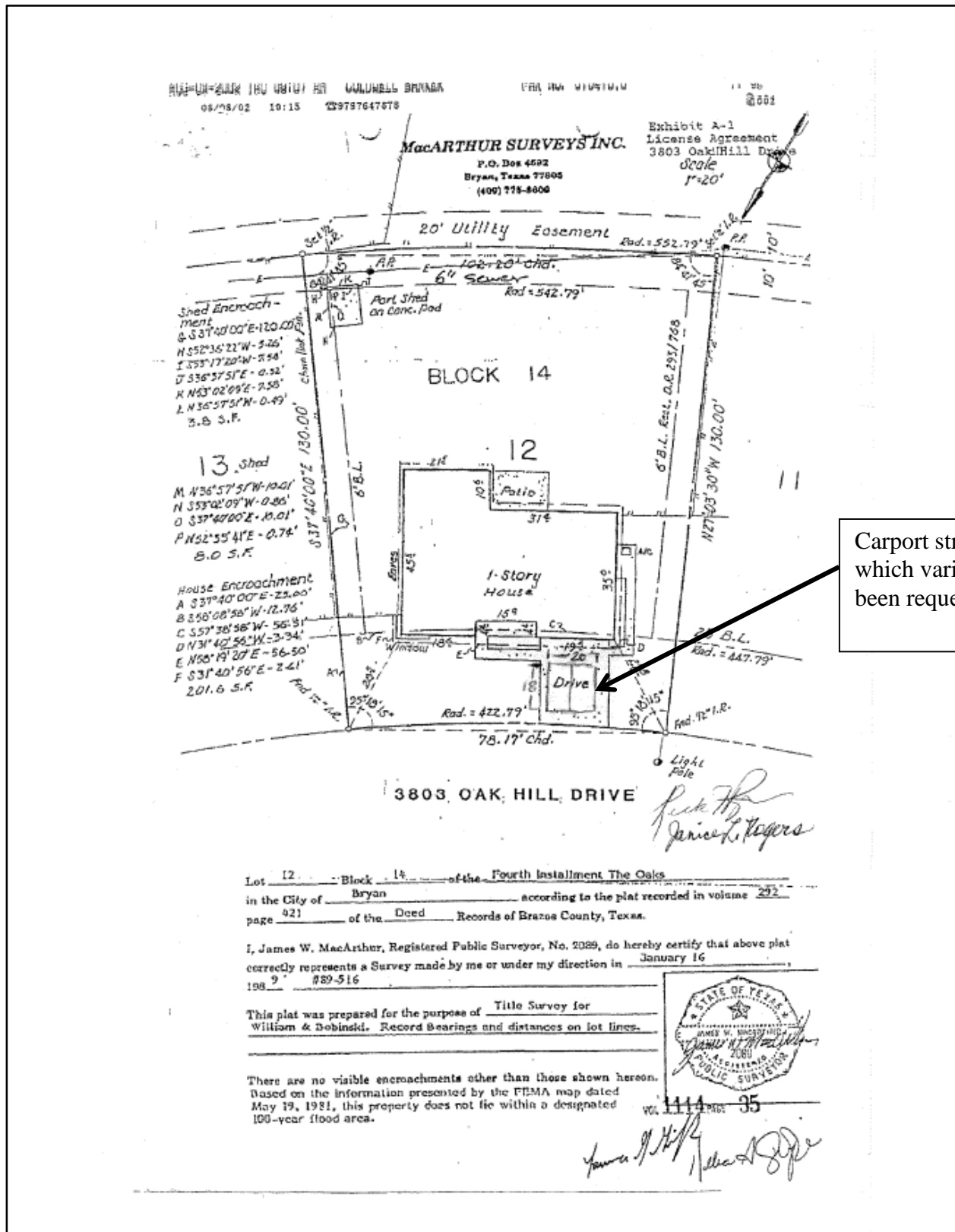


BACKGROUND:

The current land use of the subject property is a single-family, four bedroom home. The subject property is zoned Residential District – 5000 (RD-5) and properties with this zoning classification are required per the Bryan Code of Ordinances to abide by a minimum 25-foot front building setback. Without building permits approval, this carport was constructed on the property a few months ago. The two-car 18' x 20' carport extends all the way to the front property line on the subject property. The City of Bryan became aware of the carport through a complaint. After being contacted, the property owner, Rick Rogers, submitted an application requesting the subject variance to legitimize the previous installation of the carport in the minimum front setback area in front of his house on Oak Hill Drive.

Properties in the vicinity are mostly single-family homes. To the north, across Oak Hill Drive from the subject property is Johnson Elementary School. To the east and west of the property are single family-homes on properties zoned RD-5. Structures on those properties, on the same block face as the subject property, appear to have observed minimum front building setback standards. To the rear of the property the lots are zoned Residential – Neighborhood Conservation district (R-NC) and are also developed with single-family homes.

SITE PLAN – ACCOMPANYING CASE NO. PV 15-11



CURRENT CONDITIONS – STREET VIEW:



looking east from Oak Hill Drive at subject property



looking west from Oak Hill Drive at subject property

EXERCEPT FROM THE VARIANCE APPLICATION

Setback Variance Request

The following page should be completed ONLY for setback variance requests.

Please describe the type of variance being requested:

I am applying for a set back variance for my carport.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties in the area:

The variance will in no way be detrimental to the safety or welfare of the public in my area. The structure is bolted to my drive way.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties directly abutting the subject property:

The structure is currently not attached to our home; in fact the car port cover is six foot two inches from the house.

State how the hardships and difficulties imposed upon the owner are greater than the benefits to be derived by the general public through compliance with the requirements of the ordinance:

My wife and I cannot use the garage because the van does not fit safely into the garage. The other garage door has no garage door opener; if the cars are parked on the drive way, they are subject to wind, sun, and hail during inclement weather. My wife has to have a vehicle to transport my son who is a disabled Veteran from the war in Iraq. I need the other car to drive to the Byron Schools where I work as a substitute. If our cars were damaged by the weather, it would place an undue hardship on our family. Eliminating the structure will cause undue financial hardship; the cost of the structure plus the possibility of our transportation being damaged or destroyed by weather would keep us from being able to work or

2011

Page 3 of 3

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from regulations stipulated in the Land and Site Development Ordinance. **No variance shall be granted** unless the Planning and Zoning Commission finds that **all** of the following criteria are met:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his or her land;

Approval of this variance request would reduce the minimum building setback along the front property line by nearly 100 percent, from 25-feet to less than 1-foot. The property owner states in the application that the carport is 18-feet in length and sits 6-feet, two-inches from the home. The single-family residence has four bedrooms and adequate off-street parking for four vehicles with a two car garage and driveway for two additional vehicles.

Staff contends that there are no special circumstances or conditions affecting the land involved such that the carport must remain in place on the subject property. The applicant states in the variance request application that the van does not fit into the garage “safely” and therefore to protect the vehicle from natural damage (sun, rain, etc.) a carport was installed. Additionally the applicant states that the second garage does not open from the outside and therefore cannot be used to park the vehicles.

Staff contends that the carport structure will not deprive the applicant of the reasonable use of the land – vehicles can continue to park in the paved driveway or in the garage without approval of the variance request. Additionally, staff believes that the carport is a major departure from establishing building setback standards in the City of Bryan and would be detrimental to properties in the vicinity. All other properties on the same block face as the subject property facing Johnson Elementary School appear to have observed minimum front building setbacks. None have structures that extend all the way to the front property line as the carport that was installed on the subject property. If structures such as this carport were routinely allowed in the City of Bryan, such encroachments could lead to overcrowding of land with buildings in Bryan’s neighborhoods and could therefore lead to the gradual diminution in the value of neighborhood properties.

2. That the variance is necessary for the preservation and enjoyment of substantial property rights of the applicants;

Staff believes that approval of the variance is not necessary for the preservation of substantial property rights. Off-street parking, including covered parking in the attached two-car garage is still available, even if the carport were removed. No other properties on the same block face as the subject property have carport structures that extend prominently in front of homes. Granting this variance would allow this one property owner special privileges not commonly enjoyed by other neighborhood properties.

3. That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area;

Building setback standards are intended to preserve the aesthetics of the neighborhood and entire City of Bryan by guaranteeing a minimum degree of open space between public right-of-

way and residential homes. Setback requirements allow more open space between homes and allow property owners a higher quality of life by not overcrowding areas with buildings. Staff believes that approving the variance request and, therefore, the carport to remain on the property may, over time, diminish neighborhood ambience in The Oaks neighborhood as other property owners may request similar variances, which the Commission may then feel obligated to approve also. The long-term result would lead to an overcrowding of land with buildings in an established, stable Bryan neighborhood where minimum front building setbacks appear to have been mostly adhered to.

4. That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this ordinance.

As mentioned above, staff contends that granting this variance in the absence of any special circumstances or conditions related to the property, and not personal preference, could have adverse long-term effects on the orderly development in this established single-family residential subdivision. If this request were approved, owners of adjacent properties may seek similar variance requests in the future, which the Commission would then also feel obligated to approve. The long-term, cumulative effect of granting these variances could then not only cause overcrowding of land but also diminishing aesthetics of the neighborhood and property values in the vicinity.

RECOMMENDATION:

Based on all of the aforementioned considerations, staff recommends **denying** this requested variance. Granting this variance could result in disrupting the orderly development and preservation of The Oaks neighborhood across from Johnson Elementary School. The City of Bryan adopted setback requirements to preserve the aesthetics of neighborhoods by preventing overcrowding and allowing open space between public streets and residential structures. Without approval of this variance request the applicant has the alternative option of protecting their vehicles from natural weather by parking in the attached two-car garage on the property.